REMARKS/ARGUMENT

Claims 1-2, 29, 164-165 and 167-168 stand rejected under 35 U.S.C. 102(e) as anticipated by Curatolo US 6,548,555. Claim 2 has been cancelled, rendering its rejection moot. The rejection of the remaining claims under §102(e) is respectfully traversed for the following reasons.

Curatolo '555 is disqualified as prior art under 35 USC 102(e) and 103(a) because of the showing made by the Declaration of James Nightingale, filed herewith, which establishes (1) that the subject matter claimed in independent claims 1 and 164 was invented in the United States prior to the effective date (February 9, 1999) of Curatolo '555 and (2) that the subject matter of Curatolo '555 and the claimed invention were, at the time the claimed invention was made, owned by the same corporation (Pfizer, Inc.) or subject to an obligation of assignment to Pfizer, Inc.

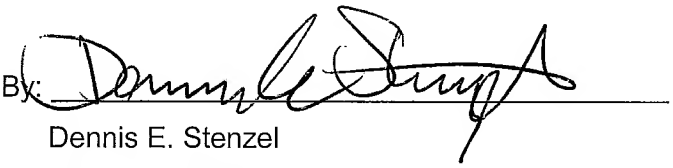
Because of the disqualification of the Curatolo patent as prior art, both the anticipation rejection of claims 1, 29, 164-165 and 167-168 and the obviousness rejection of claims 1, 29, 156, 164-165 and 167-168 as unpatentable over the combination of Curatolo and Busch US 6,110,918 are overcome.

Finally, claims 1-2, 29, 164 and 166-168 stand rejected under 35 USC 103(a) as unpatentable over Okada US 5,496,561, the Examiner apparently reasoning that Okada teaches that HPMCAS is equivalent to Eudragit® as a coating polymer, and that therefore coating a core of crystalline drug particles with Eudragit® renders the subject matter of those claims obvious. This rejection is respectfully traversed for the following reasons.

The examiner appears to have overlooked the language in independent claims 1 and 164 calling for the drug and polymer to be "present [in the composition] as particles in a dry physical mixture." Conceding for argument's sake Okada teaches drug to be present in the cores of his composition as particles, there is nothing in Okada to the effect that the polymers Eudragit® and HPMCAS are present in the composition as particles, let alone present with particles of drug as a dry physical mixture. Quite to the contrary, Okada teaches that the drug-containing cores are coated with any of four types of polymers, i.e. water soluble high polymer, acid-soluble high polymer, enteric high polymer or water-insoluble high polymer. Column 3, lines 36-39. Eudragit® and HPMCAS are disclosed as suitable enteric high polymers. Column 4, lines 17-32. Thus, at best, the only way drug and the polymer HPMCAS are taught by Okada

to be present together is as drug particles coated by HPMCAS. But, as the Examiner already concedes, "Okada does not specifically teach how to coat the core." Office Action, page 9, paragraph 21. The Examiner further concedes that Okada does not even teach HPMCAS-coated drug particles. *Ibid*, paragraph 22. The obviousness rejection of independent claims 1 and 164 therefore has no merit. Because claims 2, 29 and 166-168 all ultimately depend from claim 1 or 164, and so contain the same limitations, they are likewise not rendered obvious by Okada. For the reasons stated, early and favorable reconsideration is respectfully solicited.

Respectfully submitted,

By: 

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